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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/161,816	09/28/1998	MALCOM B. STRANDBERG	DAVOX-142XX	8075

28452 7590 11/07/2005

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MANCHESTER, NH 03104

EXAMINER

AGDEPPA, HECTOR A

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/161,816	Applicant(s) STRANDBERG, MALCOM B.	
	Examiner Hector A. Agdeppa	Art Unit 2642	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 14 October 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

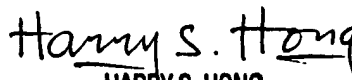
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.


HARRY S. HONG
PRIMARY EXAMINER

Examiner: Hector A. Agdeppa
 571-272-7480

Continuation of 11. does NOT place the application in condition for allowance because:

As to applicant's arguments regarding what Bateman concerns and the topic of simultaneously talking on the telephone while viewing information on a computer network, applicant completely ignores and fails to either acknowledge and/or rebut examiners arguments on pages 4 - 6 of the previous office action as to the state of the art, what was old and well known, and what would have been obvious to one of ordinary skill in the art at the time of the invention. Moreover, examiner HAS cast the mind back to the time of the invention when discussing and rejecting the present claims - see pages 4 - 6 of the previous office action.

As to applicant's arguments regarding the motivation to keep retrying a customer, applicant's argument is untenable for in ANY telephony system, especially one at the time the present invention was made, if continuous redialing is being performed a line is being taken up. Even if a predictive dialer is used and arguably, perhaps, a predictive dialing line is only connected to an agent line when the predictive dialer is answered, then the issue is merely having using dedicated lines for a predictive dialer which would have nothing to do with the present invention and could be a technique used by ANY call center, therefore, still not negating the use of Bateman. Moreover, an agent in Bateman is not manually dialing a customer's callback number. Instead, an outbound dialing system 32 (much like a predictive dialer) is used to initiate callback. Furthermore, while applicant broadly discusses "management of outbound telephone resources" and "balancing the use of continuous redialing" no such limitations are made in the claims, nor is it implied. Even if such were the case, again, as discussed in the previous office action, Bateman merely addresses the issue of providing a feature that allows a customer to be called back if an agent cannot be reached. Sutton teaches that beyond merely attempting a callback, which is where Bateman stops its discussion, retry attempts may be continuously made. Hence, Sutton merely teaches a possible way of extending what Bateman already teaches. There is ample motivation to combine the two references given their commonality gained from the callback feature.

As to applicant's arguments regarding the problem solved by the present invention, again applicant is speaking in general about the present invention and fails to remain on topic as to what is actually being claimed. Moreover, any calling party could tell a called party that he/she will be getting off the telephone and to call back. This could be in order to change the billing party, for example. In such a case, the called party could just keep trying to "call back" the original calling party until that party hangs up and the line is freed. Someone using an Internet chat session could merely tell another party involved in the chat to call him/her. That party could manually attempt to call and if the party has not disconnected from the telephone line via modem, that party could keep retrying a call. Of course, a busy signal will be heard until the party disconnects. This is what would tell the caller to keep retrying. In other words, applicant's invention, though described as being more, is in fact, nothing more than automating a callback scenario that could easily be experienced by anyone using a standard telephony system, both now, and well before the time of invention.

Finally, as to applicant's arguments regarding Shtivelman, applicant repeatedly made arguments to the effect that Bateman could not be used to discuss the state of the art at the time the invention was made because it taught the ability to have simultaneous voice and data transmission. Hence, examiner applied Shtivelman merely to show that callbacks in systems wherein a customer utilized one telephony line for both data and voice communications was a situation known and addressed in the prior art, and in order to receive a callback from a call center required the customer to end his/her Internet session.